

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BROADCAST MUSIC, INC.; SONGS OF UNIVERSAL, INC.; EMI VIRGIN SONGS, INC. d/b/a EMI LONGITUDE MUSIC; KEN ADAMANY, RICK NIELSEN, BRAD CARLSON, ROBIN ZANDER and TOM PETERSON, a partnership d/b/a ADULT MUSIC; SCREEN GEMS-EMI MUSIC, INC.; JONATHAN SIEBLES d/b/a LESS THAN ZERO MUSIC; TONY FAGENSON d/b/a SOUTHFIELD ROAD MUSIC; JAMES MAXWELL STUART COLLINS, an individual d/b/a FAKE AND JADE MUSIC; PAUL SIMON d/b/a PAUL SIMON MUSIC; EMI BLACKWOOD MUSIC INC.; COUNTING CROWS, LLC d/b/a JONES FALLS MUSIC; ROBERT KUYKENDALL, RICHARD A. REAM, BRUCE JOHANNESSON and BRET M. SYCHAK, a partnership d/b/a CYANIDE PUBLISHING,

Case No. 07 CV 10373

ANSWER

Plaintiffs,

- against -

GOTHAM YARD CORP. d/b/a SESSION 73 and PETER CORBERT THOMAS, HUNTER HULSHIZER, and JOSEPH GRILLO, each individually,

Defendants.

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Defendants **GOTHAM YARD CORP d/b/a SESSION 73 and PETER CORBERT THOMAS, HUNTER HULSHIZER and JOSEPH GRILLO** (“Defendants”), by their attorney Lawrence W. Rader, Esq., respectfully replies to and answers the Complaint (the “Complaint”) filed by the plaintiffs **BROADCAST MUSIC, INC., ET AL** (“Defendants”), as follows:

ANSWER

1. Paragraph 1 of the Complaint asserts conclusions of law as to which no response is required.

2. Paragraph 2 of the Complaint asserts conclusions of law as to which no response is required.

3. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint.

4. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint.

5. Defendants admits the allegations contained in paragraph 5 of the Complaint.

6. Defendants deny the allegations contained in paragraph 6 of the Complaint.

7. Defendants admit that Peter Corbert Thomas is an officer of Defendant Gotham Yard Corp.. Defendants deny the remaining allegations contained in paragraph 7 of the Complaint.

8. Defendants deny the allegations contained in paragraph 8 of the Complaint.

9. Defendants admit that Hunter Hulshizer is an officer of Defendant Gotham Yard Corp.. Defendants deny the remaining allegations contained in paragraph 9 of the Complaint.

10. Defendants deny the allegations contained in paragraph 10 of the Complaint.

11. Defendants admit that Joseph Grillo is an officer of Defendant Gotham Yard Corp.. Defendants deny the remaining allegations contained in paragraph 9 of the Complaint.

12. Defendants deny the allegations contained in paragraph 12 of the Complaint.

CLAIMS OF COPYRIGHT INFRINGEMENT

13. In response to paragraph 13 of the Complaint, Defendants repeats and realleges each and every response set forth in paragraphs 1 through 12 above as if fully set forth herein.

14. To the extent that paragraph 14 of the Complaint asserts conclusions of law, no response is required. Defendants deny the remaining allegations contained in paragraph 14 of the Complaint.

15. Defendants deny the allegations contained in paragraph 15 of the Complaint concerning copyright infringement and deny knowledge and information as to the remaining allegations in paragraph 15 of the Complaint.

16. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint.

17. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint.

18. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint.

19. Defendants deny the allegations contained in paragraph 19 of the Complaint.

20. Defendants deny the allegations contained in paragraph 20 of the Complaint.

DEFENSES

As and for its defenses to the claims asserted in Soul Circus' Complaint, the Apollo Foundation alleges as follows.

First Defense

21. The Complaint fails to state any claim upon which relief may be granted.

Second Defense

22. The Complaint is barred, in whole or in part, under the doctrine of laches.

Third Defense

23. The Complaint is barred, in whole or in part, by the doctrine of estoppel

Fourth Defense

24. Plaintiffs have not suffered any compensable and/or quantifiable damages.

Fifth Defense

25. Defendants hereby reserve and reassert all defenses and affirmative defenses available under any applicable federal and state law. Defendants currently have insufficient knowledge or information upon which to form a belief as to whether it may have other, as yet unstated, affirmative defenses available. Therefore, Defendants reserve their rights to assert additional defenses in the event that discovery indicates that it would be appropriate.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Defendants hereby demands trial by jury on all matters so triable.

WHEREFORE, Defendants respectfully request that this Court

- (a) dismiss the Complaint in its entirety, with prejudice;
- (b) award Defendants their costs and expenses of this action, including reasonable attorney's fees; and
- (c) grant such other and further relief as the Court deems appropriate.

Dated: April 18, 2008

Respectfully submitted,

By: /s/ Lawrence W. Rader (LR 6594)

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*Attorney for Defendants Gotham Yard Corp., Peter
Corbert Thomas, Hunter Hulshizer and Joseph
Grillo*